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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

KURT DAYTON GEHRING,

Civ. No. 07-179 AC

Petitioner,

**ORDER DISMISSING HABEAS
CORPUS PETITION**

v.

BRIAN BELLEQUE, Superintendent,

Respondent.

This matter having come before the Court on the motion of the Petitioner to voluntarily dismiss his habeas corpus petition,

IT IS HEREBY ORDERED that the Petition for a Writ of Habeas Corpus is dismissed without prejudice. In the event that the decision in *Blakely v. Washington*, 542 U.S. 296 (2004), is later made retroactive to cases on collateral review, Petitioner has leave to reopen this case only as to the *Blakely* issues, and the limitations period shall be deemed tolled from the date this Order is signed until sixty (60) days after the date of the decision rendering *Blakely*

retroactively applicable. If *Blakely* is made retroactive and the Petitioner moves to reopen this case during the above-referenced 60-day period, Petitioner may also amend the Petition as of right so as to properly plead all *Blakely*-based claims in this Court.

IT IS SO ORDERED this 21st day of August, 2008.



THE HONORABLE JOHN V. ACOSTA
U.S. Magistrate ~~Court~~ Judge

Submitted by:

/s/ Thomas J. Hester

Thomas J. Hester
Attorney for Petitioner

Lynn Larsen (by consent)
Attorney for Respondent